IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

T.R.C.No.186 of 2003

T.A.NO.468/1999 OF KERALA SALES TAX APPELLATE TRIBUNAL, ADDITIONAL BENCH, ERNAKULAM

.....

PETITIONER/APPELLANT/ASSESSEE

M/S. ALAPPAT EXPORTS (P) LIMITED,
BROADWAY, ERNAKULAM, REPRESENTED BY ITS DIRECTOR,
MR,MANUEL ALAPPAT.

BY ADV. SRI.A.K.JAYASANKAR NAMBIAR
SRI.ANIL D. NAIR

RESPONDENT/RESPONDENT/REVENUE:-

STATE OF KERALA.

BY SENIOR GOVERNMENT PLEADER MR.MOHAMMED RAFIQ

THIS TAX REVISION CASE HAVING COME UP FOR ORDERS ON 23/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L.Dattu,C.J. & K.T.Sankaran,J.

T.R.C.No.186 of 2003 & C.M.P.No.2594 of 2003

Dated, this the 23rd day of July, 2007

ORDER

H.L.Dattu,C.J.

The delay in filing the Tax Revision Case is condoned.

(2) Since the issues involved in this case are already covered by the decision of this Court, the matter is taken up for final hearing.

(3) The assessee calls in question the correctness or otherwise of the orders passed by the Kerala Sales Tax Appellate Tribunal, Additional Bench, Ernakulam in T.A.No.468 of 1999 dated 23.01.2002 for the assessment year 1994-95.

(4) The assessee has raised the following issues for our consideration and decision. They are as under:

> (i) In the facts and circumstances of the case ought not the tribunal have held that the judgment of the Hon'ble High Court in the case of Supreme Board relied upon by the Tribunal, is distinguishable on the facts and circumstances of the instant case?
>
> (ii) Ought not the Tribunal have found that in the instant case, the exemption from tax under Notification SRO 1727/93, for Gold Bullion imported in accordance with the provisions of the EXIM policy then in force, was total and hence the provisions of Section 5A had no application in the instant case?
>
> (iii) In the facts and circumstances of the case, ought not the tribunal have held that the petitioner herein is not hit by the provisions of Section 5A notwithstanding the exemption granted to the suppliers on the basis of SRO 1727 of 1993 issued under S.10 of the KGST Act?"

(5) The issues raised herein are no more debatable in view of the order passed by this Court in O.P.No.34485 of 2000 and connected matters, disposed of on 10.07.2007. Following the principles laid down in the

aforesaid decision, the revision petition is rejected. The questions of law raised by the assessee are answered in the negative and against the assessee and in favour of the Revenue.

Ordered accordingly.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/-